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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,006	09/26/2001	May Chu Tan	F7557(V)	1872

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UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,006	TAN ET AL.	
	Examiner	Art Unit	
	Helen F. Pratt	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Postner (4,430,352) in view of Garlic Sauce and Bakal (4,572,836).

Postner discloses a composition which contains chopped onions in the amount of 88-92%, salt, - 1%, and a water binding agent (swelling agent) in amounts from .05-.2% and oil in amounts of from 3-5% (col. 4, lines 5-19, col. 3, lines 20-24). The polysaccharides – galactomannan and xanthan are generally considered to be gums. Chopped onions as in the title are considered to be equivalent to sliced onions (claim 6). Onions and garlic as in claim 7 are known to contain 50% water as in the references. Preservatives such as sodium metabisulphite and ascorbic acid as in claim 12 are disclosed in col. 4, lines 5-19. Claims 1-12 differ from the reference in the particular amount of oil. However, Garlic Sauce discloses sauce ingredients such as cornstarch, water, oil, garlic, and chicken broth, in which the oil would have amounted to about 10% of the sauce composition ingredients. The finely chopped garlic cloves of this reference are also considered to be in particulate form. Also, Bakal teaches an herb composition which uses from 25-70% oil and the herb can be onions (col. 3, lines 35-59). The particle size of less than 600 micron is also considered to be within the particulate range

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as in claim 6 (col. 5, lines 51-60). Therefore, it would have been obvious to use more oil in the claimed composition if desired because Garlic Sauce teaches such.

Other vegetable matter such as mushrooms and carrots and chili are disclosed in Garlic sauce under the list of ingredients. Therefore, it would have been obvious to use other known ingredients with the Allium ingredients as in claim 13.

Claim 14 requires a pH of under 4.5. Posner discloses the use of ascorbic acid in his composition, which would make for an acid pH (col. 4, lines 5-20). Bakal discloses the use of an acid pH of 4.5 in an herb composition (col. 6, lines 10-16). Therefore, it would have been obvious to use a pH of 4.5 in the composition of Posner if one wanted to reduce the pH to that level because pH's of that level are known in onion compositions.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above combined references as applied to claims 1-14 above, and further in view of Gubler (WO 98/47386).

Claim 15 further requires a particular amount of hardstock fat crystals. Gubler discloses that it is known to use 0.2 to 10% hardstock in a fat composition containing onions or garlic (page 16, claim 1 and 3). Therefore, it would have been obvious to use particular amounts of hard fat for its known function of affecting the viscosity of a composition in the composition of the combined references.

Claim 16 further requires the use of particular amounts of lecithin. Gubler discloses that it is known to use lecithin in sauce compositions containing a fat phase. Lecithin is a known emulsifier. Therefore, it would have been obvious to use lecithin as

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an emulsifier in the composition of the combined references for its known function of emulsifying.

INFORMATION DISCLOSURE FORM


The Examiner was not able to obtain reference 2365300 with the Derwent abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 703-308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Hp 9-12-03


HELEN PRATT
PRIMARY EXAMINER